

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3110
Administrative Law Judge Division
April 3, 2003

R E S O L U T I O N

RESOLUTION ALJ 176-3110. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

ALJ/hkr

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

ALJ/hkr

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on April 3, 2003, the following Commissioners voting favorably thereon:

/s/ WILLIAM AHERN

WILLIAM AHERN
Executive Director

MICHAEL R. PEEVEY
President

CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3110 (4/3/03)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A03-03-012 INTERNATIONAL EXCHANGE COMMUNICATIONS, INC., MATRIX TELECOM, INC., for approval of the transfer of certain assets and related transactions and a waiver of applicable anti-slamming regulations.	Ratesetting	Ratesetting	NO
A03-03-013 VCOM SOLUTIONS, INC., (U 6601-C), for a Certificate of Public Convenience and Necessity to provide: (i) Facilities-based competitive local exchange service throughout the service territories of Pacific Bell Telephone Company, Verizon California, Inc., Roseville Telephone Company, and Citizens Telecommunications Company of California, Inc.; and (ii) Facilities-based Interexchange service statewide.	Ratesetting	Ratesetting	NO
A03-03-019 ENTRIX TELECOM, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A03-03-020 PACIFIC GAS AND ELECTRIC COMPANY, (U 39-M), for authorization under Public Utilities Code Section 851 (1) to Quitclaim an existing easement for an idle 115 kV transmission line in advance of Phase One of Pacific Union Ventures Residential Development Plan, and (2) to Quitclaim a distribution easement in advance of Phase Two and Phase Three of Pacific Union Ventures Residential Development Plan.	Ratesetting	Ratesetting	NO
A03-03-021 LCR SERVICES INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A03-03-022 FLORES, MAURICIO D., dba ALICIA'S SHUTTLE, for authority to operate as a Passenger Stage Corporation between points in the Counties of Contra Costa, Alameda and San Francisco, and the San Francisco, San Jose and Oakland International Airports; and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3110 (4/3/03)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A03-03-023 STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, for authorization to construct the Sultana Drive Overhead, P.U.C. No.B-138.6-A/DOT No. 921 261T over tracks owned by the Union Pacific Railroad Company in the City of Livingston, County of Merced, State of California.	Ratesetting	Ratesetting	NO
A03-03-025 CATALINA FREIGHT LINE, a California corporation, for authority to increase rates for the transportation of freight between Los Angeles Harbor and Catalina Island, California; and for an ex parte interim order authorizing the same.	Ratesetting	Ratesetting	NO
A03-03-026 PENINSULA CORRIDOR JOINT POWERS BOARD, for authority to construct a new pedestrian underpass to replace an existing pedestrian overpass at the Lawrence Sunnyvale Station, City of Sunnyvale, County of Santa Clara.	Ratesetting	Ratesetting	NO
A03-03-027 IMPACT NETWORK SOLUTIONS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the Provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A03-03-028 CALL PLAN USA CALIFORNIA, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A03-03-029 SAN DIEGO GAS & ELECTRIC COMPANY, (U 902-E), for authority to make various electric rate design changes, close certain rates, and revise cost allocation among customer classes effective January 1, 2004.	Ratesetting	Ratesetting	YES

PRELIMINARY DETERMINATION SCHEDULE

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A03-03-030 XE DO HOANG TRANSPORTATION, LLC, to modify and extend its passenger state authority under Public Utilities Code Section 1031 et seq., to transport passengers and baggage express, on an on-call county to county pricing basis, between points in San Diego, Orange, Los Angeles, Riverside, San Bernardino, Kern, Fresno, Santa Clara, San Francisco, Alameda, Sacramento, et al, on the one hand, and to establish door-to-door shuttle service in Orange County, on the other hand; and to modify its zone of rate freedom under Sections 454.2, et. Seq., of the Public Utilities Code.	Ratesetting	Ratesetting	NO
A03-03-031 CALIFORNIA WINE TOURS, INC., EVANS AIRPORT SERVICE, INC., for Approval of the transfer by sale of the operating authority held by Evans Airport Service, Inc. (Seller) in Passenger Stage Corporation Certificate 985 to California Wine Tours, Inc. (Buyer) pursuant to the provisions of Public Utilities Code Section 851 et seq.	Ratesetting	Ratesetting	NO
A03-03-033 FOCAL COMMUNICATIONS CORPORATION OF CALIFORNIA, (U 5922-C), for authority to Discontinue Services to certain customers in the State of California.	Ratesetting	Ratesetting	NO
A03-03-034 VERTEX GROUP, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A03-03-036 CATALINA CLASSIC CRUISES, INC., for an extension of its certificate of public convenience and necessity to authorize non-scheduled vessel common carrier service between points at and within three miles offshore of Avalon, Santa Catalina Island and request for interim operating authority to provide the service on or before June 1, 2003.	Ratesetting	Ratesetting	NO
A03-03-037 CATALINA PASSENGER SERVICE, INC., for authorization to increase rates of fare for the transportation of passengers by vessel between Newport Beach and Avalon, Santa Catalina Island.	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A03-03-038 CITY OF GOLETA, to widen and reconstruct the Los Carneros Road Overhead Structure [P.U.C. Crossing No. 001E-360.90-A] located in the City of Goleta, County of Santa Barbara, State of California.	Ratesetting	Ratesetting	NO
A03-03-039 TELRITE CORPORATION, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A03-03-040 U.S. HOSPITAL EQUIPMENT, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
A03-03-041 U.S. HOSPITAL EQUIPMENT, INC., for a Certificate of Public Convenience and Necessity to provide Resold and Facilities-Based Local Exchange Telecommunications services within the State of California.	Ratesetting	Ratesetting	NO
A03-03-042 SOUTHERN CALIFORNIA GAS COMPANY, (U 904-G), for authorization (1) to obtain Long-Term Debt Capital not to exceed the equivalent of U.S.\$715,000,000, of which not less than \$500,000,000 will be applied to, or used to reimburse its Treasury for, the discharge of indebtedness and/or Preferred Stock; (2) to obtain an Exemption from the Competitive Bidding Rule; (3) to enter into Interest Rate Swaps, Caps, Collars and/or Currency Exchange Contracts; and (4) take all other necessary, related actions.	Ratesetting	Ratesetting	NO
A03-03-043 SOUTHERN CALIFORNIA EDISON COMPANY, (U 338-E) for a Permit to Construct Electrical Facilities with Voltage between 50 kV and 200 kV: Viejo System Project.	Ratesetting	Ratesetting	YES
A03-03-044 LIFESPAN INC., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO

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Resolution ALJ 176-3110 (4/3/03)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A03-03-045 CM TEL (USA) LLC, for a Certificate of Public Convenience and Necessity to provide Resold and Limited Facilities-Based Local Exchange Telecommunications Services in the service territories of Pacific Bell and Verizon California within the State of California.	Ratesetting	Ratesetting	NO
A03-03-046 MINERAL CITY WATER SYSTEM, to sell and Mineral County Water District to buy the water system in Tehama County.	Ratesetting	Ratesetting	NO
A03-03-047 SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT, for an Order authorizing construction of an elevated railroad station crossing above BART tracks and the tracks of the Peninsula Corridor Joint Powers Board, centered on milepost 13.62.	Ratesetting	Ratesetting	NO